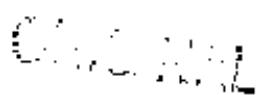




Ordering and Billing  
Forum



ATIS/OBF CARE 012

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## 1.0 Subscription Overview

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## **1.0 SUBSCRIPTION OVERVIEW**

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## 1.0 SUBSCRIPTION OVERVIEW

### 1.1 EQUAL ACCESS HISTORY

Divestiture of the Bell System on January 1, 1984, resulted in the separation of the Bell System resources into seven Regional Holding Companies responsible for local exchange services in the respective geographical areas and a separate company, AT&T, which retained interexchange services. The United States was divided into Local Access and Transport Areas (LATA's), with the local exchange company being responsible for calls originating and terminating within the same LATA, and long distance carriers competing for calls between LATA's.

The Modified Final Judgment (MFJ) and the Consent Decree required Bell Local Exchange Companies and General Telephone/Electroics (GTE) (LECs or BOCs), to provide equal access to requesting Interexchange Carriers (ICs). Equal access allows end users to access facilities of a designated Interexchange Carrier (IC) by dialing "1" only. The end user has the additional capability of using other Interexchange Carriers (ICs) by dialing an access code for casual call dialing. Equal access is defined as that which is "equal in type, quality, and price, to that provided to AT&T and its affiliates" (MFJ-1983). Equal service has also been referred to as Feature Group D access, easy dialing and 1+ Service. Subscription is the process that enables end users to select a Primary Interexchange Carrier (PIC).

Initially, there was neither a standardized method nor guidelines for an Exchange Carrier (EC) to convert an end office to equal access. The Federal Communications Commission (FCC) reviewed Exchange Carriers' (ECs') conversion procedures and required any Exchange Carrier (EC) converting an end office to equal access to follow the guidelines as created in OI Document 83-1145, Appendix B, released June 12, 1985, with subsequent modifications and waivers. Waivers were permitted for conversion of pay stations, due to technical limitations. The Department of Justice and United States District Court required Bell local exchange companies (October 1988) and GTE (December 1988) to route 0+ interLATA calls from pay stations to the premise owner's Interexchange Carrier (IC) choice. A court order (May 1990) addressed 1+ traffic from pay stations.

Previously, the industry changed Interexchange Provider/Interexchange Carrier (IP/IC) to Access Customer (AC) and Exchange Provider/Exchange Carrier/Wireless (Cellular) carrier (EP/EC/WC) to Access Provider (AP).

References to "cellular" for the purposes of the remainder of this document have been changed to "wireless." The term "wireline" is used to distinguish the non-wireless provider.

Due to the growing competitive nature of the telecommunications industry, the terms "Access Customer" and "Access Provider" have become too restrictive to adequately define the roles of each party involved. For example, an Access Provider (AP) may serve as a Switch Provider (SWP) by offering local service via resale to another Local Service Provider (LSP).

The meaning of the acronym "AC" has been changed from "Access Customer" to Access Carrier" for the remainder of this document.

The terms Customer and Provider will serve as an umbrella to cover the diversity of the industry where specific Customer/Provider roles are not applicable.

Customer - entity initiating CARE requests and/or receiving end user information.

Provider – entity responding to CARE requests and/or providing end user information.

Examples of the Customer/Provider roles:

AC TO AP	CUSTOMER TO PROVIDER
AP TO AC	PROVIDER TO CUSTOMER
AC TO LSP	CUSTOMER TO PROVIDER
LSP TO AC	PROVIDER TO CUSTOMER
AC TO SWP	CUSTOMER TO PROVIDER
SWP TO AC	PROVIDER TO CUSTOMER
LSP TO SWP	CUSTOMER TO PROVIDER
SWP TO LSP	PROVIDER TO CUSTOMER
LAC TO AAC	CUSTOMER TO PROVIDER
AAC TO LAC	PROVIDER TO CUSTOMER

NOTE: Acronym definitions may be found in Section 12.0.

Specific TSSIs and scenarios within the CARE ISI will better clarify these relationships. Please refer to the Customer/Provider Transaction Relationship Guide contained in Section 10.1.

## 1.2 SUBSCRIPTION ENVIRONMENTS

Regulatory rulings, technology and competition have created an environment where end users can choose their long distance services based on dialing patterns. This includes 1+ dialing for intralATA, interLATA, and international services (multiple PIC processes). The multiple PIC process supports residential, business and public (coin) services/lines.

Examples of different PIC environments are:

- A one (1) PIC environment is when the end user has a choice of provider for their intralATA calls.
- A two (2) PIC environment (Option A) is when the end user has a choice of provider for their intralATA calls and their international calls.
- A two (2) PIC environment (Option B) is when the end user has a choice of provider for their intralATA calls and their interLATA calls.
- A three (3) PIC environment is when the end user has a choice of provider for their intralATA calls, interLATA calls and their international calls.
- A Non-LATA Single PIC environment is when the end user lives in a geographic area not bounded by LATA's (i.e., for territories where jurisdictional indicators are not applicable, e.g., Canada)

### 1.3 SUBSCRIPTION PROCESS AND ADMINISTRATION

The Ordering and Billing Forum (OBF) Subscription Committee is the industry arena to address the administration of the equal access carrier selection process. It supports discussion of evolving regulatory and industry impacts to the information exchanged between Customers and Providers. The Subscription Committee also reviews addenda and revisions to the guidelines.

Issues submitted to the Ordering and Billing Forum (OBF) must meet the following criteria:

1. Issue must be between a Customer and Provider.
2. Issue must be national in scope, that is, the issue must cause impact to Providers and/or Customers.
3. An industry solution does not presently exist or the existing solution can be enhanced to gain operational efficiencies, etc.

The Subscription Committee developed this support document entitled "Equal Access Subscription CARE/JSI" (Customer Account Record Exchange/Industry Support Interface). This document provides information beginning with the preconversion environment and continuing through the postconversion environment. Day to day activities of new and existing end users are also supported. This document is prepared, maintained and distributed under the auspices of the Ordering and Billing Forum (OBF) of the Carrier Liaison Committee of the Alliance for Telecommunications Industry Solutions (ATIS) formerly the Exchange Carrier Standards Association (ECSA).

### 1.4 PURPOSE OF CUSTOMER ACCOUNT RECORD EXCHANGE (CARE)

CARE was developed to facilitate the exchange of end user account information between Providers and Customers. It generically identifies data elements which might be shared between Customers and Providers and supports a data format intended to facilitate the mechanized exchange of that information. It is intended to provide a consistent definition and data format for the exchange of common data elements. This document neither mandates nor precludes the exchange of any information between Customers and Providers. CARE does not replace or supersede applicable tariffs, contracts, or other legally binding agreements.

Resellers of local service and Switch Providers (SWPs) may communicate with each other via the CARE JSI Guidelines to process PIC related transactions in the Local Resale environment.

## **1.5 CUSTOMER ACCOUNT RECORD EXCHANGE (CARE) STRUCTURE AND DESIGN**

CARE permits flexibility in exchanging end user information to allow for a variety of subscription activity. It contains a wide range of transactions for use by Customers or Providers.

The exchange of end user information is at line level. Line Level includes WTX and, if applicable, TLR and PTN. The only exception is in those cases where a Customer and a Provider accept a single Billing Telephone Number (BTN) as a means of subscribing an entire account. Eligible lines within the account would be processed without the submission of line level detail. Eligible lines are defined as lines for which an end user has a choice of a PIC selection. Examples include, but are not limited to PIC Proven lines, Toll Restricted lines and PIC Name lines.

CARE allows for the transmission of multiple types of records on the same file, using special identifiers called Transaction Codes (TCs) and Status Indicators (SIs). A clear understanding and appropriate application of Transaction Codes Status Indicators (TCSIs) are key elements to the successful use of CARE by Customers and Providers. The Transaction Code (TC) describes the nature or purpose of the data being exchanged. As an example, it can identify general lists of end users, orders processed, orders rejected, etc. Status Indicators (SIs) are unique to each Transaction Code (TC), and provide specific details associated with the Transaction Code (TC). Status Indicators (SIs) can identify the reason why an order is rejected, the origin of an order that was processed, etc.

## **1.6 IMPLEMENTATION OF CUSTOMER ACCOUNT RECORD EXCHANGE (CARE)**

Each Customer and Provider should identify those transactions and data elements that will be used which reflect its policies, procedures, and interaction exchanges. Adoption of CARE is at the discretion of the Customers and Providers. As CARE is adopted, either in its entirety or in phases, each Customer and Provider should carefully document plans for implementation. This plan should include details concerning the types of information to be exchanged using CARE.

In those cases where it is believed that a new requirement has general application throughout the industry, an issue should be presented to the Ordering and Billing Forum (OBF) so that incorporation of the element or data into CARE documentation can be reviewed.

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Federal Communications Commission (F.C.C.)

SECOND REPORT AND ORDER IN DOCKET NO. 96-149 AND THIRD REPORT AND ORDER  
IN DOCKET NO. 96-61

ON THE MATTER OF REGULATORY TREATMENT OF LEC PROVISION OF INTEREXCHANGE  
SERVICES ORIGINATING IN THE LEC'S LOCAL EXCHANGE AREA  
Docket No. 96-149

AND

POLICY AND RULES CONCERNING LEC INDEPENDENT, INTEREXCHANGE MARKETPLACE  
Docket No. 96-61

FCC 97-142

Adopted: April 17, 1997

Published: April 18, 1997

By the Commission: Commissioner Ness issuing a separate statement

- INTRODUCTION

1. In February 1996, the "Telecommunications Act of 1996" became law. [FN1] The intent of this legislation is to provide for a pro-competitive, non-discriminatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services throughout America by opening all telecommunications markets to competition. [FN2] In this rulemaking and related proceedings, the Commission is adopting policies necessary to achieve the pro-competitive, deregulatory goals of the 1996 Act.

2. Upon enactment, the 1996 Act permitted the Bell Operating Companies ("BOCs") [FN3] to provide interexchange services that originate outside of their regions. [FN4] On March 25, 1996, the Commission released a Notice of Proposed Rulemaking initiating a review of its regulation of interstate, domestic, interexchange telecommunications services in light of the passage of the 1996 Act and the increasing competition in the interexchange market over the past decade. [FN5] Among other things, the Commission asked whether it should modify or eliminate the separation requirements imposed on independent local exchange carriers ("ILECs") (exchange telephone companies other than the BOCs) as a condition for non-dominant treatment of their interstate, domestic, interexchange services originating outside their own exchange areas. [FN6] The Commission also sought comment on whether, if it modified or eliminated these separation requirements for independent LECs, it should apply the same requirements to BOC provision of out-of-region interstate, domestic, interexchange services. [FN7] The Commission also proposed to revise the relevant product and geographic market definitions for purposes of determining whether a carrier should be regulated as dominant or non-dominant in the provision of interstate, domestic, interexchange services. [FN8]

3. The 1996 Act conditions the BOCs' entry into in-region, interLATA service on their compliance with certain provisions of section 271 of the Act. Under section 271, we must determine, among other things, whether the BOC has complied with the standards imposed by section 272 and our rules promulgated thereunder. [FN9] Section 272(b)(2) states, among other things, that a BOC provide in-region, interLATA services through a separate affiliate that meets the requirements of section 271(b). [FN10]

4. On July 16, 1996, we released a Notice of Proposed Rulemaking in which we

(Publication page references are not available for this document)

eight comment or the non-accounting corporate affiliate and nondiscriminatory safeguards in section 272. [FN11] We also sought comment on whether we should alter the dominant carrier classification that under our current rules would apply to in-region, interstate, domestic, interexchange services provided by the BOC's section 272 interLATA affiliates (BOC interLATA affiliates). [FN12] Further, we sought comment on whether we should modify our existing rules for regulating the provision of in-region, interstate, domestic, interexchange services by an independent BOC. [FN13] Finally, we invited comment on whether we should apply the same regulatory treatment to the BOC interLATA affiliates' and independent BOCs' provision of in-region, international services that we apply to their provision of in-region, interstate, domestic, interLATA services and in-region, interstate, domestic interexchange services, respectively. [FN14] We recently adopted rules to implement the section 272 non-accounting separate affiliate and nondiscrimination safeguards. [FN15] On the same day, we adopted rules to implement the accounting safeguards in sections 160 and 271 through 276. [FN16]

5. This Order addresses the market definition and dominant/non-dominant classification issues raised in the Interexchange RRS and the Non-Accounting RRS due to NIPRML. With respect to market definition, we adopt the approach proposed in the RRS. Specifically, we revise our current product and geographic market definitions in accordance with the 1992 Strategic Guidelines. [FN17] We conclude that we should define as a relevant product market any interstate, domestic, long distance service for which there are no close substitutes, or a group of services that are close demand substitutes [FN18] for each other, but for which there are no others whose demand is not related. [FN19] We define the relevant geographic market for in-region, domestic, long distance services as all possible routes that allow for a connection from one particular location to another particular location (i.e., a point-to-point market). We conclude, however, that when a group of points-to-points markets exhibit sufficiently similar competitive characteristics (i.e., market structure), we can aggregate such markets rather than examine each individual point-to-point market separately. Therefore, if we conclude that the conditions for a particular service in any point-to-point market are sufficiently representative of the conditions for that service in all other domestic point-to-point markets, then we will examine aggregate data, rather than data particular to each domestic point-to-point market. With respect to the BOC interLATA affiliates and independent BOCs, however, we conclude that we should analyze point-to-point markets that originate from and terminate separately from those point-to-point markets that originate *out-of-region*. To determine whether the BOC affiliates' or independent BOCs' market power in local exchange and exchange access services results in market power in the interexchange market, we note that, in some cases, it may be necessary to focus specifically on the termination point because the local exchange carrier that serves the end-user customer will necessarily have market power with regard to that customer.

6. We also conclude that a BOC interLATA affiliate should be classified as dominant only if we find that it has the ability profitably to raise and sustain prices of in-region, interstate, domestic, interLATA services significantly above competitive levels by restricting its own output. Dominant carriers are subject to more stringent regulation than non-dominant carriers, including price cap regulation, when specified by Commission order, and tariff filing notice periods of 10, 20 or 120 days. [FN20] In light of the requirements established by, and pursuant to, sections 271 and 272, together with other existing Commission rules, we conclude that the BOCs will not be able to use, or leverage, their market power in the local exchange or exchange access markets to such an extent that their section 272 interLATA affiliates could profitably raise and sustain prices of in-region, interstate, domestic, interLATA services significantly above competitive levels by restricting the affiliate's own output. We also conclude that regulating BOC in-region interLATA affiliates as dominant carriers generally would not help to prevent improper allocation of costs, discrimination by the BOCs against rivals of their interLATA affiliates, or price squeeze by the BOCs or the BOC interLATA affiliates. Although certain aspects of dominant carrier regulation may address these concerns, we conclude that the burdens they would impose on competition, consumers, and the

telephone numbers. [FN67] Finally, DDCI argues that the focus on demand-side substitutability in the 1992 Merger Guidelines results in an inaccurate measurement of market power in the telecommunications industry because the monopolists or near monopolists that control the local exchange and exchange access market may foreclose competition by raising the price of an essential facility they provide to competitors without also raising the price of the service they sell to end-users. [FN68].

### 3. Discussion

24. We conclude that the 1992 Merger Guidelines provide an appropriate analytical framework for defining relevant markets in order to assess market power in the interstate, domestic, long distance marketplace. We disagree with those commenters that claim that the 1992 Merger Guide rules are inapplicable in a regulatory setting as are based on generalized market concepts that are inapplicable to the telecommunications industry. We find that the 1992 Merger Guidelines are based on fundamental and widely applicable economic principles, such as principles of demand and supply substitution. [FN69]. Accordingly, we reject DDCI's contention that the telecommunications industry is unique in that the 1992 Merger Guidelines are inapplicable. [FN70] The 1992 Merger Guidelines are intended to guide DDCI and the FCC in their analysis of mergers taking place in any industry, not only mergers in particular industries. [FN71] The economic parameters contained in the 1992 Merger Guidelines are not limited to an analysis of particular types of markets, but rather are broadly drawn to accommodate virtually all marketplace characteristics. [FN72] In fact, DDCI agrees that "[t]he Commission's market definition, like market definition under the Antitrust laws, should be guided by the basic economic principles that inform competitive analysis and market definition under the DDCI Merger Guidelines." [FN73]. We acknowledge that, in its comments, DDCI notes that the different objectives of regulation and antitrust enforcement may affect the application of the market definition in those contexts. [FN74]. We agree and realize that the markets defined in a particular antitrust proceeding may reach different results. DDCI does not argue, however, that the fundamental concepts and principles espoused in the 1992 Merger Guidelines apply only in the merger context.

25. We conclude that we should revise our product and geographic market definitions to follow the approach taken in the 1992 Merger Guidelines. Most commenters do not appear to articulate serious disagreements with the fundamental economic principles on which we base our revised approach to defining the relevant product and geographic markets. Rather, they appear to focus their concern on the impact that this new approach may have on specific determinants of market power. We believe that our market power analysis, including our approach to defining the relevant product and geographic markets, should not be formulated by focusing on end results, but instead should be focused on the application of sound economic principles and analysis. As a result, we conclude that the product and geographic market definitions defined in the Competitive Carrier proceeding should be refined to follow the approach taken in the 1992 Merger Guidelines in order to ensure that our market power assessments are based on the most accurate, up-to-date, and generally accepted economic principles relating to market analysis. As new carriers enter the long distance marketplace and as the telecommunications marketplace changes in the face of increased competition, the flexibility inherent in our new approach to defining the relevant product and geographic markets enables us to make more accurate measurement of market power than before by accounting for unique carrier characteristics that could impact the dynamics of the marketplace. [FN75] For example, many new carriers have begun entering the long distance market by targeting particular types of customers or by targeting customers in particular areas, suggesting that carriers do not view the Interstate, domestic, long distance market as a single national market or as a single market of interchangeable and substitutable services.

37. In contrast to some commenters, [FN26] we find that supply substitutability [FN27] should not be used to define relevant markets, but rather should be used to determine which providers are currently serving, or potentially could be serving, a relevant market, only after that market has been identified. [FN28] We conclude that our market definitions should be based solely on demand substitutability [FN29] (and, [FN30]) This conclusion accords with the 1992 Merger Guidelines, which state that, "Market definition focuses solely on demand substitutability factors [i.e., possible consumer responses]. Supply substitution factors [i.e., possible production responses] are considered elsewhere in the Guidelines in the identification of firms that participate in the relevant market and the analysis of entry." [FN30]

38. Under the 1992 Merger Guidelines, market power is determined by delineating both the product and geographic markets in which power may be exercised and, then, identifying those firms that are current suppliers and those firms that are potential suppliers in that particular market. Therefore, in determining whether a carrier is able to exercise market power in the provision of a particular service or group of services or within a particular area, we must consider two factors. First, in the case of the relevant product market, we must consider whether, if all carriers raised the price of a particular service or group of services, customers would be able to switch to a lower rate service offered at a lower price. To do so, in the relevant geographic market, we must consider whether, if all carriers in a specified area raised the price of a particular service or group of services, customers would be able to switch to the same service offered at a lower price in a different area. Second, with respect to supply substitutability, we must consider whether, if a carrier raised the price of a particular service or group of services, other carriers, currently not offering that service or group of services, would have the intent to and the ability to begin provisioning a substitute service quickly and easily. For example, if we were assessing the market power of a carrier providing long distance service from Miami, and determined that another carrier currently providing service in Los Angeles would also begin providing service from Miami if the price of the service in Miami were to increase, we would consider the impact of the Los Angeles carrier's potential entry into Miami in assessing the market power of the Miami carrier. This does not mean, however, that customers in Miami consider long distance service offered in Los Angeles as a substitute for service offered in Miami. Therefore, long distance service offered in Miami and long distance service offered in Los Angeles would not be categorized as services in the same relevant geographic market. By following the approach taken in the 1992 Merger Guidelines, we will continue to weigh supply substitutability as an important factor in assessing market power, but we will not use it as a factor in defining the relevant product and geographic markets.

39. We acknowledge that the approach to defining relevant markets that we adopt in this proceeding departs from the approach adopted in the Competitive Carrier proceeding and applied in the AT&T Reclassification Order. [FN31] For the reasons discussed herein, we believe these more refined definitions are now necessary. To the extent that various parties argue that our new approach is contrary to our decision in the AT&T Reclassification Order, [FN32] it is well established that the Commission may change approaches as long as it provides a reasoned explanation for doing so. [FN33] Should any modifications be necessary to decisions reached in the AT&T Reclassification Order, they will be addressed, as necessary, in further proceedings. [FN34] We emphasize, however, that, because market definition is only one step in assessing market power, changes made in the approach to defining relevant markets will not necessarily produce different assessments of market power.

40. We also reject the argument that we should not revise the product and geographic market definitions because of the dynamic changes taking place in the long distance marketplace. [FN35] To the contrary, we believe that these changes in the long distance marketplace provide a compelling reason to modify our approach to defining the relevant product and geographic markets. Our new approach to defining relevant markets will be consistently applied, yet contain inherent flexibility,

Commission weigh any potential benefits. As a result, we classify the BOCs' local telephone affiliates as non-dominant in the provision of in-region, interstate, domestic, interexchange services.

7. We also classify the independent LECs as non-dominant in the provision of in-region, interstate, domestic, interexchange services, because the independent LECs do not have the ability justifiably to raise and sustain prices at in-region, interstate, domestic, interexchange services above competitive levels by restricting their own output of these services. We conclude, however, that the independent LECs' control of local exchange and exchange access facilities potentially enables them to discriminate costs from their in-region, interexchange services, discriminate against rivals of their interstate affiliates, and engage in other anti-competitive conduct. We therefore require the independent LECs to provide toll-free long-distance, interstate, domestic, interexchange services through separate affiliates that satisfy the separation requirements adopted in the Competitive Carrier Fifth Report and Order. (FRC)

8. In addition, we adopt the same regulatory treatment of the BOC interstate affiliates' and independent LECs' provision of in-region, international services, as we adopt for their provision of in-region, interstate, domestic, interstate and in-region, interstate, domestic, interexchange services, respectively. Accordingly, we will classify each BOC interstate affiliate or independent LEC affiliate as non-dominant in the provision of in-region, international services, unless it (or its parent) is affiliated within the meaning of section 31.19(b)(1)-(3) of the rules, with a foreign carrier that has the ability to discriminate against rivals of the U.S. affiliate through control of both access services or facilities in a foreign market. In that case, we will apply section 31.19(a) of the rules to determine whether to regulate the BOC interstate affiliate or independent LEC and whether a dominant carrier in its provision of services between the United States and that foreign market. (FRC) We will require one independent BOC to provide in-region international services through separate affiliates that satisfy the competitive carrier fifth Report and Order separation requirements, consistent with the requirements we apply to their provision of in-region, interstate, domestic, interexchange services. (FRC)

9. Finally, we consider whether we should modify or eliminate the separation requirements imposed on the BOCs and independent LECs as a condition for non-dominant treatment of their provision of out-of-region interstate, domestic, interexchange services. We conclude that those requirements are unnecessary, and we therefore eliminate the separation requirements as a condition for non-dominant treatment of the BOCs' and independent LECs' provision of out-of-region, interstate, domestic, interexchange services.

10. The actions we take in this proceeding will further the pro-competitive, deregulatory objectives of the 1996 Act by eliminating unnecessary regulation that is currently imposed on interexchange carriers affiliated with BOCs and independent LECs. Although we are classifying these carriers as non-dominant with respect to their provision of in-region and out-of-region long distance services, as summarized above, we recognize that, as long as these carriers retain market power in providing local exchange and exchange access services, they will have some incentive and ability to discriminate costs to local exchange and exchange access services, to discriminate against their long distance competitor, and to engage in other anti-competitive conduct. We conclude, however, that the regulatory structure we adopt today will continue the process of enhancing competition in all telecommunications markets as envisioned by the 1996 Act.

#### II. BACKGROUND

11. Between 1979 and 1985, the Commission conducted the Competitive Carrier

(Publication page references are not available for this document.)

communications, for which it determined how its regulations should be adopted to reflect the increased competition in telecommunications markets. [FM24] In a series of orders, the Commission distinguished between two kinds of carriers – those with market power (dominant carriers), and those without market power (non-dominant carriers). [FM25] In the Competitive Carrier Fourth Report and Order, the Commission defined market power alternatively as "the ability to raise prices by restricting output," and as "the ability to raise and maintain price above the competitive level without driving away so many customers as to make the increase unprofitable." [FM26] The Commission recognized that, in order to assess whether a carrier possesses market power, one must first define the relevant product and geographic markets. [FM27] In the Competitive Carrier proceeding, the Commission relaxed its tariff filing and facilities authorization requirements for non-dominant carriers and focused its regulatory efforts on constraining the ability of dominant carriers to exercise market power. [FM28]

13. Our rules define a dominant carrier as one that possesses market power, and a non-dominant carrier as a carrier not found to be dominant (i.e., one that does not possess market power). [FM29] Under our rules, non-dominant carriers are not subject to rate regulation, and currently may file tariffs that are presented new in one day's notice and without cost support. [FM30] Non-dominant carriers are also subject to streamlined section 214 requirements. [FM31] In addition, dominant interexchange carriers are subject to price cap regulation, when specified by Commission order, and must file tariffs on 14, 45, or 100 day's notice, with cost support data for above-cap and out-of-band tariff filings, and with additional information for new service offerings. [FM32] Dominant domestic carriers must also obtain specific prior Commission approval to construct a new line or to acquire, lease or operate any line, as well as to discontinue, reduce, or impair their service. [FM33].

14. In the Competitive Carrier First Report and Order, the Commission classified ILECs and pre-1984 AT&T as dominant, with respect to both local exchange and interstate long distance services, and therefore subject to the "full panoply" of non-exempt Title II regulation. [FM34] In contrast, the Commission classified MCI, Sprint, and a few "specialized common carriers" as non-dominant carriers. [FM35]

15. In the Competitive Carrier Fourth Report and Order, the Commission determined that interexchange carriers affiliated with independent LECs would be regulated as non-dominant "interexchange carriers." [FM36] In the Competitive Carrier Fifth Report and Order, the Commission clarified that an "affiliated LEC" was "a company that is owned (in whole or in part) or controlled by, or under common ownership (or wholly or in part) or control with, an exchange telephone company." [FM37] The Commission further clarified that, in order to qualify for non-dominant treatment, the affiliated provider of interstate, interexchange services must: (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with its affiliated exchange telephone company; and (3) acquire any services from its affiliated exchange telephone company at tariffed rates, terms and conditions. [FM38] The Commission noted that any interstate, interexchange services offered directly by an independent LEC (rather than through a separate affiliate) or through an affiliate that did not satisfy the specified conditions would be subject to dominant carrier regulation. [FM39]

16. In the Competitive Carrier Fifth Report and Order, the Commission also addressed the possible entry of the BOCs into interstate, interLATA services in the future:

The BOCs currently are barred by the [MEI] from providing interLATA services... If this bar is lifted in the future, we would regulate the BOCs' interstate, interLATA services as dominant until we determined what degree of separation, if any, would be necessary for the BOCs or their affiliates to qualify for non-dominant regulation. [FM40]  
In that Order, we revisited the question of the appropriate regulatory treatment of

As I have said, our Assessment of market power will always be based on a particular carrier's or group of carriers' unique market situation. For example, in recognition that certain carriers may control discrete facilities in specific geographic areas, target particular types of customers, or provide specialized services, our new market definitions allow us to examine the relevant product and geographic markets at the level of detail necessary to make a more accurate assessment of market power than under the Competitive Carrier definitions. We find that the definitions developed in the Competitive Carrier proceeding would not provide us with sufficient flexibility to account for the impact such unique market situations may have on assessing market power because those definitions are too broad to analyze markets at the necessary level of detail. At the time the Commission defined the relevant product and geographic markets in the Competitive Carrier proceeding, telecommunications services were provided primarily by a single national carrier. Under such a regulatory model, the use of a single-line definition of relevant markets did not significantly hinder our analysis of market power. Today, in light of the dramatic changes that have been occurring in the long distance marketplace, particularly those brought on by the passage of the Telecommunications Act of 1996, which made it easier competing to provide more specialized and regionalized long distance services to different types of customers, more detailed market definitions are needed to assess market power more accurately and to prevent the particular carrier whose dominant power is to be tested from exercising.

## 2. Product Market Definition

### 1. General Approach to Product Market Definition

#### a. Background

41. In the Campbell II competitive proceeding, the Commission defined the relevant product market as "all interstate, domestic, interexchange telecommunications services . . . with no relevant submarkets." [RM86] In the Interexchange NIRM, we found very difficult that we should refine our analysis and define as a relevant product market any competitive, individual, interexchange service for which there are no close demand substitutes or any group of services that are close substitutes for each other but for which there are no other alone demand substitutes. [RM87] Recognizing, however, that delineating all relevant product markets would be administratively burdensome and that the Commission has previously found that there is substantial competition with respect to most interstate, domestic, interexchange services, the Commission reluctantly concluded that we generally should assess the question of whether a particular domestic, interstate, interexchange service, or group of services, constitutes a separate product market only where there is credible evidence suggesting that there is or could be a lack of competitive performance with respect to a particular service or group of services. [RM88] We asked commenters to evaluate this new approach and to suggest any other possible approaches.<sup>3n89n</sup>

#### b. Comments

42. Several commenters support the proposed approach to redefining the relevant product market. [RM90] Many commenters agree that the Commission should rely on demand substitutability in defining relevant product markets. [RM91] A number of commenters argue, however, that the Commission should continue to recognize supply substitutability in defining the relevant product market and, therefore, should not modify the relevant product market definition adopted in the Competitive Carrier proceeding. [RM92]

33. GTE maintains that the definition proposed in the Interexchange NPMR would confer on the Commission with the flexibility to accommodate a rapidly-evolving, technology-driven environment and would enable the Commission to assess a particular service provider's ability to exert market power over new products. [FN93] GTE claims, however, that the certainty of the Commission's standard would diminish if different market evaluations were applied to particular carriers or groups of carriers and that a relatively strong basis for distinguishing them. [FN94] Although it generally supports the revised approach to defining the relevant product market, the Local Telephone Service Commission warns that logical sets of substitutable services will likely intersect with one another, which could render the Commission's approach to defining relevant product markets unworkable in practice. [FN95]

34. AT&T opposes the approach proposed in the Interexchange NPMR. It emphasizes that the 1992 Merger Guidelines support an aggregate product market definition where "product line substitution among a group of products is nearly universal among the firms in the line or lines of the products," as in the telecommunications industry. [FN96] AT&T claims that, due to pervasive supply substitutability, a product market defined by a single service would yield the same market share and market power as under the single product market approach adopted in the Competitive Carrier proceeding. [FN97] Because there is no difference between the facilities used to provide two different services, AT&T argues that there is ample capacity for carriers to attract customers from any carrier that attempts to exercise market power with respect to a particular service. [FN98] AT&T further claims that the Commission's recent two years of AT&T's 800 directory assistance and analog private line offerings provide no basis to abandon the single product market definition. [FN99] AT&T maintains that the Commission recognized that AT&T's pricing of 800 directory assistance is constrained by supply substitutability principles, and that the migration of analog private line customers to digital and virtual private line services demonstrates that these services are substitutable and, therefore, in the same market. [FN100]

35. The BOCs generally oppose the product market definition proposed in the Interexchange NPMR. [FN101] BellSouth supports retention of the current product market definition on the grounds that there is high cross-elasticity of demand among virtually all interexchange services, most of which are interchangeable services that are purchased differently, and that the distinctions between services can be easily erased by entities such as resellers. [FN102] For example, BellSouth argues that, if a sole supplier of any particular interexchange service raised its prices by five percent or more, most customers would turn to a different service as an alternative. [FN103] BellSouth disputes the Commission's suggestion that market power over discrete fringe services may warrant redefinition of the relevant product market. [FN104] It further asserts that delineating relevant product markets would be administratively burdensome and might cause carriers with no market power to be regulated as dominant carriers. [FN105] BellSouth claims that the Commission's proposed approach would be inconsistent with the Commission's decision in the AT&T Reclassification Order, in which AT&T was classified as nondominant even though it was found to control two discrete services in the overall product market. [FN106] BellSouth also contends that the Commission's proposed approach seems to signal a return to the "all-services" methodology of assessing dominance, which was expressly rejected in the AT&T Reclassification Order. [FN107]

36. Pacific agrees that the product market definition turns on whether there are sufficiently close substitutes for a product or group of products. Pacific concedes, however, that because services, such as MTS, discount plans, WATS, RCC service, foreign exchange service, wireless and even "carrier" access services, are highly substitutable options for consumers to place or receive long distance calls, the relevant product market should include all interstate, long distance services. [FN108]

37. USIA questions the Commission's use of a demand-elasticity threshold to define the relevant domestic product market, especially when the Commission proposes to continue to emphasize supply substitutability in defining the

international product markets. [FN109] USIA asserts that the Commission has consistently and correctly recognized a single relevant product market, and cautions that the Commission should not abandon this long-settled definition in favor of numerous, fragmented submarkets. [FN110]

37. A number of commenters support our proposal to the Interexchange NPA to delineate separate product markets only if there is credible evidence demonstrating that there is or could be a lack of competitive performance with respect to a particular service or group of services. [FN111, NCC claims that, although some interexchange services may have characteristics indicative of discrete product markets, there is no lack of competitive performance with respect to a particular service or group of services that would warrant the Commission's delineating the boundaries of specific product markets. [FN112] The Pennsylvania Commission cautions that state commissions and consumer advocacy groups may not have access to the information necessary to determine whether credible evidence exists, especially if the Commission delineates non-dominant carriers. [FN113] Sprint states that the Commission should reexamine various product markets if circumstances require. [FN114]

38. ACTA suggests that a separate relevant market should be established where the Commission finds that a carrier possesses market power over a particular market segment. [FN115] In delineating product markets, ACTA believes that the Commission should consider many factors, including such customer classifications as residential, small business, medium, and large businesses, but cautions that product markets based on discrete offerings may not adequately account for products offered as a package of services. [FN116]

39. Two commenters identify particular services that, they contend, should be classified as separate product markets. The Pennsylvania Commission recommends that the Commission define three separate product markets: (1) POTS or residential long distance; (2) BATS/BSC services and the virtual backbone-type services (i.e., services provided within software defined networks). [FN117] SPRINT argues that the Commission should treat interstate toll free directory assistance as a separate product market because there are no substitutes and it makes sense policy to impose different rules. [FN118]

## c. Discussion

40. We conclude that the product market definition adopted in the Competitive Carrier proceeding should be revised to reflect the 1993 Merger Guidelines' approach to defining relevant markets. [FN119] As explained above, we find that this new approach to defining the relevant product market will provide us with a more refined and narrowly-focused tool that more accurately reflects market realities. We therefore adopt our tentative conclusion in the Interexchange NPA that we should define as a relevant product market any interstate, domestic, long distance service for which there are no close demand substitutes, or a group of services that are close substitutes for each other, but for which there are no other close demand substitutes. [FN20] We do so except our tentative conclusion that we need not delineate the boundaries of specific product markets, except where there is credible evidence suggesting that there is or could be a lack of competitive performance with respect to a particular service or group of services.

41. Unlike the approach to product market definition adopted in the Competitive Carrier proceeding, our new approach will rely exclusively on demand considerations to set the relevant product market, rather than supply substitutability. [FN21] As discussed above, supply substitutability will continue to be a relevant factor in assessing market power, but will not be used as a factor in defining the relevant market. [FN22] Although this distinction may be subtle, we believe that it is important, in order to ensure that each step we take in assessing market power is

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grounded in fundamental economic principles and marketplace realities. Our new approach, however, does not reflect an "all-services" methodology of assessing dominance, in which a carrier must be deemed dominant with respect to all services if it is found to have market power over any single service. Rather, our new approach allows us, where warranted, to focus our analysis on particular services and limit our assessment of market power with regard to only those particular services.

43. We further adopt our tentative conclusion that we need not delineate any particular product markets to analyze the market power of a particular carrier or group of carriers unless there is credible evidence suggesting that there is or could be a lack of competitive performance with respect to a particular service or group of services. [FN123] We recognize that the various services used in the interstate, domestic, long distance marketplace are changing.

[FN124] Patterns of consumer demand and the forces of competition spur continual innovation and force carriers constantly to reevaluate current services, remove outdated services, and add new services to the marketplace. In light of these marketplace dynamics, we conclude it is best to establish a consistent approach to defining the relevant product market that maintains the flexibility to recognize separate product markets only when there is credible evidence indicating that there is or could be a lack of competitive performance with respect to a particular service or group of services.

43. Despite two commenters' recommendations that we identify for all purposes, in this proceeding, particular services as separate product markets, we decline to do so at this time. [FN125]

We conclude that such a determination should only be made in the context of assessing the market power of a particular carrier or group of carriers. [FN126] Unless there is credible evidence suggesting that there is or could be a lack of competitive performance with respect to a particular service or group of services, we will treat these services together, by analyzing aggregate data that encompasses all long distance services, rather than information particular to specific services. [FN127] Recognizing that we have previously found that there is substantial competition with respect to most interstate, long distance services, such an approach allows us to avoid the burdensome task of delineating separate product markets when there is no other credible evidence suggesting that a particular carrier or group of services is exercising or has the ability to exercise market power with respect to a particular service or group of services. Therefore, we will continue to examine narrower relevant product markets except when such credible evidence has been to our satisfaction. [FN128]

44. We conclude that the approach we adopt here will not impose an undue burden on parties seeking to have the Commission define narrower relevant product markets in order to assess the market power of a particular carrier or group of carriers. Such parties will still have to prove that there is an actual lack of competitive performance with respect to a particular service or group of services. Rather, they must only present credible evidence that there is or could be a lack of competitive performance. [FN129] Credible evidence should include information sufficient to identify services that are likely substitutes and the carrier or group of carriers that allegedly possesses market power. Contrary to the concerns of the Regional Public Utility Commission, because information suggesting a lack of competitive performance, such as the inability of service from a single provider, is easily observable, we need not require data from proprietary sources for this purpose. Moreover, as we recognized in the Tariff Performance Order, even in the absence of tariffs for interstate, domestic, interexchange services offered by non-dominant carriers, we conclude that information concerning the rates, terms and conditions for such services will still be readily accessible to consumers and other interested parties because carriers will continue to disclose this information through, inter alia, the billing process, notifications required by service contracts or state consumer protection laws, and marketing materials, such as advertisements. [FN130]

2. **PUBLIC MARKET DEFINITION FOR BOC TELECOM AFFILIATES AND INDEPENDENT LSCCs**

a. **Background**

45. In its 1995 NOCLARITION letter, NTCM, we respectfully contend that if we adopt the more or less deflected approach proposed in the Interconnection Rule, we should take into account the domestic, long distance services as the relevant product power in their evaluation of independent telephone, interexchange, intercarrier services and whether independent LSCCs have market power in the provision of local calling, interexchange services. [H-31]

b. **Comments**

46. Although numerous other changes were made, we respectfully contend that if we approach to the problem in a similar manner proposed in the Interconnection Rule, we should take into account the domestic, long distance services as the relevant product power in their evaluation of independent telephone, interexchange, intercarrier services and whether independent LSCCs have market power. [H-32]

47. AT&T argues that the interexchange providers market definition proposal is whether the BOC can obtain market power in the local market to impose interconnection charges and switching fees on the proper markets to analyze and thus local exchange and switching access service markets, rather than the interexchange market. [H-33] AT&T also argues that the product market definition is irrelevant to whether BOC localism affiliates could exercise market power if the interexchange market because BOC interlocal affiliates clearly do not have the ability to raise prices by restricting output. [H-34]

48. Bell South argues that since the Commission did not redefine the product market, it refers to two where either AT&T has a dominant position in local access and local interexchange services. [H-35] AT&T also agrees with the Commission that AT&T's contention that all interlocal, domestic, interexchange affiliates should be grouped into the relevant product market for independent LSCCs. [H-36]

49. The Independent Telephone Telecommunications Alliance (ITA) contends that BOC telecommunications should adopt a relevant market definition of local telecommunications interchanging, "that encompasses such services as interexchange, local access and affiliated services." An "expansion of the new market structure envisioned by the 1996 Telecommunications Act will be providing a broad range of services." [H-37] That same telephone telecommunications association (ITA) contends that the relevant product market should include those services that rely on or utilize the BOC local telephone facilities. [H-38]

c. **Conclusion**

50. We urge you to do whatever you can to consider proposed by such evidence as the record, that suggests that there is a particular interexchange service or group of services that will be provided by BOC interlocal affiliates or independent LSCCs with respect to which there is or could be a lack of competition.

jurisdiction. Moreover, we have found previously that there is substantial competition with respect to most interstate, domestic, interexchange services offered. [FNL391] As a result, we conclude that we need not conduct any product-specific product market inquiry in order to evaluate the market power of BOC interLATA affiliates and independent LECs for interexchange services. We conclude that at this time and for purposes of determining whether BOC interLATA affiliates or independent LECs have market power in the provision of domestic, interstate, long distance services, our assessment of market power will remain the same, regardless of whether we examine each individual long distance service, different groupings of long distance services, or aggregate data that encompasses all long distance services. Therefore, in examining the market power of BOC interLATA affiliates and independent LECs in the provision of domestic, interstate, long distance services, we find it is appropriate at this time to evaluate their market power with respect to all interstate, domestic, long distance services, other than conducting a separate analysis of each individual service.

51. In response with AT&T's assertion that the previous market definition is too narrow in assessing whether BOC interLATA and LECs possess market power in the domestic, interstate, long distance market. As discussed above, we know that a relevant product market must be defined before we can evaluate whether a particular carrier or group of carriers possesses market power. While we agree with AT&T that other factors are important in making our overall assessment of market power, we conclude that we must define the relevant product market in order to reach an accurate assessment of whether BOC interLATA affiliates or independent LECs possess market power in the domestic, interstate, long distance marketplace.

#### A. International Product Market for BOC interLATA Affiliates and Independent LECs

52. In the Non-Accounting Safeguards RFO, we concludedly concluded that we should apply the current international product market definition, which recognizes international message telephone service (IMTS) and non-IMTS as separate product markets, for purposes of determining whether BOC interLATA affiliates and independent LECs possess market power in the provision of international long distance services. [FNL40]

53. BOC and NYNEX generally agree with the Commission's negative conclusion that IMTS and non-IMTS should be treated as the relevant product markets for international services. [FQ41] USTA supports treating international services as a product market separate from domestic services, because international agreements and regulation create different conditions than exists for domestic interexchange services. [FNL42]

Questioning the wisdom of dividing international services into two distinct product markets, Sprint argues that the Commission should retain flexibility to reflect the rapid changes taking place in the product market for international communications. [FNL43] Sprint asserts, for example, that, where providers engage in the resale of international private lines interconnected to the public switched network at both ends, the distinctions between IMTS and non-IMTS are blurred. [FNL44]

54. We conclude that, for purposes of determining whether BOC interLATA affiliates and independent LECs possess market power in the provision of international long distance services, we will modify our tentative conclusion and examine aggregate data that encompasses all international long distance services. However, our approach to defining relevant markets is based on fundamental economic principles. we find that it is appropriate for examining market power in both the domestic and international long distance markets. Although we recognize that international agreements and regulation distinguish international long distance service from domestic long distance service, we conclude that, while these distinctions may affect our assessments of market power, they do not change our approach to defining relevant markets. Therefore, we find that we should define the

relevant product market, in the international context, as any international long distance service for which there are no close substitutes or a group of services that are close substitutes for each other, but for which there are no other close substitutes. We need only delineate specific product markets, however, when there is credible evidence suggesting that there is or could be a lack of competitive performance with respect to a particular service or group of services.

b. Although traditionally we have recognized IIMTS and non-IIMTS as separate international long distance product markets, we conclude, similar to our conclusion in the domestic context, that this distinction is not necessary for purposes of analyzing whether DDC international affiliates and independent LECs possess market power in the international long distance marketplace in this Order because our assessment of market power will not change whether we examine IIMTS and non-IIMTS separately as distinct product markets or analyze aggregate data that encompasses both IIMTS and non-IIMTS. Our decision to analyze aggregate data that encompasses IIMTS and non-IIMTS in this particular context, does not modify our treatment of IIMTS and non-IIMTS as separate product markets under the existing framework for regulating U.S. carriers as dominant in the provision of international services because of the market power of an affiliated foreign carrier. [FN145]

## C. Geographic Market

### 1. Geographic Market in General

#### a. Background

c. In the Domestic Interexchange proceeding, the Commission defined the relevant geographic market as "the United States (including Alaska, Hawaii, Puerto Rico, A.S., Virgin Islands, and other U.S. off-shore trusts), ... with no relevant submarkets." [FN146] In the Interexchange Order, the Commission tentatively concluded that we should refine this analysis and define a relevant geographic market for interstate, domestic, interexchange services as all or part of the relevant product market, between two particular points. [FN147] For purposes of market power analysis, however, the Commission tentatively concluded that, in general, we should treat domestic, interstate, interexchange calling as a single, national market because geographic rate averaging, in conjunction with the pervasiveness of ubiquitous calling plans, should reduce the likelihood that a carrier could exercise market power in a single point-to-point market, and because price regulation of basic service and excess capacity in interstate transport should reduce the likelihood that an interexchange carrier would exercise market power in most point-to-point markets. [FN148]

d. There is credible evidence suggesting that there is or could be a lack of competition in a particular national market or group of point-to-point markets and that in a showing that geographic rate averaging will not sufficiently mitigate the exercise of market power in that market or group of markets, we proposed to examine the individual market or group of markets for the presence of market power. [FN149] We asked commenters to evaluate this new approach and to suggest any other possible approaches. [FN150]

#### e. Comments

f. Many commenters oppose the Commission's proposal to define a relevant geographic market for interstate, domestic, interexchange services as all or part of the market between two points, although some commenters conceded its conceptual validity.

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(FN151) Those parties opposing the point-to-point market definition generally advance a live retention of the single national market definition adopted in the Competitive Carrier proceeding. Several commenters claim that demand patterns based on the widespread use of ubiquitous calling plans favor a national market. (FN152) Other commenters indicate that it may be too early to define relevant geographic markets with location precision, and that point-to-point markets would not be sufficiently viable because of the impracticality of conducting a market power analysis in each point-to-point market. (FN153) A number of parties support our proposal to treat interstate, interexchange calling as a single national market unless there is credible evidence suggesting that there is or could be a lack of competition in a particular point-to-point or group of point-to-point markets, and there is a showing that geographic rate averaging will not sufficiently alligate the exercise of market power. (FN154)

58. AT&T disagrees with the Commission's point-to-point market analysis and argues that a single national market definition reflects the way that competitors have built and continue to build their business. (FN155) AT&T also notes that the Commission has rejected point-to-point markets on several previous occasions. (FN156) AT&T, BellSouth, SPRINT and NYNEX emphasize that supply substitutability demonstrates that the market is national because several carriers have national networks with capacity to provide alternate routing and the ease of manufacturing new facilities or to retool services allows carriers to enter the market and expand service rapidly. (FN157)

59. Several commenters contend that the geographic rate averaging and rate integration requirements in the 1996 Act and the regulatory regime overseeing access also point to the existence of a single, national market because together they ensure that the benefits of competition in one market will be passed on to customers in other markets. (FN158) Bell Atlantic supports using a national market because, as long as customers select a carrier for nationwide coverage, national pricing schemes will drive the market, whether or not certain local carriers offer services originating only in a particular region. (FN159) PacTel claims that the trend toward uniform, distance-insensitive pricing demonstrates that the interexchange market remains a national one. (FN160) NYNEX asserts that if point-to-point markets are appropriate, AT&T should not have been classified as a non-interexchange interexchange carrier because it is the sole carrier serving a number of different cities. (FN161)

60. PacTel and CTC assert that a single nationwide geographic market is supported by economic theory, Commission precedent, the AT&T Reclassification Order, and the 1996 Act. (FN162) CTC acknowledges, however, that certain service providers may be able to take advantage of their market power in some point-to-point markets, despite geographic rate averaging, regulatory access pricing and excess transmission capacity. In such situations, CTC recognizes that a narrower geographic market may be appropriate to measure market power if there is credible evidence of a lack of competition in a particular market. (FN163) CTC adds that, if the Commission does adopt a point-to-point approach, this analysis should apply to IXCs as well as AT&T. (FN164)

61. Ameritech does not oppose the possibility of identifying smaller markets than the national market, but claims that it is unable to identify any such markets at this time. (FN165) NCC acknowledges that the relevant geographic market theoretically could be defined as all calls between two particular points, but argues that examining markets at such a level of detail would be impractical. (FN166)

62. LUCIS claims that, although, for most purposes, the appropriate relevant geographic market for interstate, interexchange services is national, the division between local and long distance will blur as competition develops in the local market and the Commission must be able to employ an appropriate geographic market definition to reflect those changes. (FN167) ACC and GCT oppose the Commission's

proposal to treat interexchange services generally as a single national market. [FN168] According to AT&T, such a definition would overlook route-specific pricing schemes designed to defeat competitive entry. [FN169] GCI argues that certain service characteristics, such as a de facto or de jure monopoly in the provision of a service or a shortage of capacity in interstate transport, should provide adequate justification for exempting a particular market from the presence of market power. [FN170] GCI cites Alaskan's local telephone monopoly in rural Alaska and the limited fiber optic capacity linking Alaska to the continental United States as such examples. [FN171]

43. A few commenters propose alternative approaches for defining relevant geographic markets, including markets based on state boundaries or local exchange boundaries and markets based on Metropolitan Statistical Areas (MSAs), Basic Trading Areas (BTAs) or Major Trading Areas (MTAs). [FN172] GCI asserts that, because market power does not follow any preestablished lines, the Commission should conduct a market power analysis for any area for which there is a justifiable allegation of market power. [FN173]

#### c. Definitions

44. We conclude that the geographic market definition adopted in the Competitive Carrier proceeding should be revised to reflect the approach to defining relevant markets contained in the 1993 Merger Guidelines. [FN174] In accordance with the principles enunciated in the 1993 Merger Guidelines, we believe that long distance rates at its most fundamental level, involves a customer making a connection from one specific location to another specific location. As we stated in the Telephone Company NMRH, "[w]e believe that most telephone customers do not view local exchange calls originating in different locations to be close substitutes for each other." Therefore, we further conclude that we will follow the revised approach to the geographic market definition proposed in the Interexchange NMRH and define a relevant geographic market for interstate, domestic, long distance services as all possible routes that allow for a connection from one particular location to another particular location (i.e., a point-to-point market).

45. Contrary to a number of commenters, we find that defining the relevant geographic market as a point-to-point market, rather than as a single national market, more accurately reflects the fact that most customers use long distance services by purchasing ubiquitous calling plans. A point-to-point connection is a fundamental element of all types of interstate, domestic, long distance services, [FN175] including purely point-to-point services, [FN176] as well as point-to-all-points services [FN177] and all-point-to-point services. [FN178] Ubiquitous calling plans encompass point-to-all-points services or all-points-to-point services, which are essentially a bundle of point-to-point connections serving a common point. Although ubiquitous calling allows customers to make multiple point-to-point connections from or to a common point via a single source, it does not change the nature of interstate, domestic, long distance calling. From the customer's perspective, while the calling plan itself may be "ubiquitous" in that it offers nationwide coverage from or to a common point, the market to purchase that plan is a localized market, not a national one. For example, customers located in Miami generally purchase calling plans that offer long distance service originating from Miami. Any calling plan that provides service originating from Los Angeles, even if it is "ubiquitous" service, could not be a viable substitute for customers located in Miami. Accordingly, we believe that defining the relevant geographic market as a point-to-point market is a more accurate approach to assessing market power than a more national market definition, even assuming that most long distance customers purchase ubiquitous calling plans.

46. We recognize, however, that assessing market power in each individual point-to-point market would be administratively impractical and inefficient. Therefore, we

clarify our proposal in the Interexchange NRPB to treat, in general, intra-state, long distance calling as a single national market unless there is credible evidence indicating that there is or could be a lack of competition in a particular point-to-point market, and there is a showing that geographic rate averaging will not sufficiently mitigate the exercise of market power. We conclude that when a group of point-to-point markets exhibit sufficiently similar competitive characteristics (i.e., market structure), we will examine that group of markets using aggregate data that encompasses all point-to-point markets in the relevant area, rather than examine each individual point-to-point market separately. Therefore, if we conclude that the competitive conditions for a particular service in any point-to-point market are sufficiently representative of the competitive conditions for that service in all other domestic point-to-point markets, then we will examine aggregate data, rather than data particular to each domestic point-to-point market. [FM179] Such a finding would require that there be no credible evidence that there is or could be a lack of competitive performance in any point-to-point market for that service. As noted in the Interexchange NRPB, we believe that geographic rate averaging, price regulation of exchange access services, and the excess capacity in Interstate Telephone's currently owned carriers to behave similarly in each domestic point-to-point market and reduce the likelihood that carriers could exercise market power in most point-to-point markets. [FM180]

67. When there is credible evidence suggesting that there is or could be a lack of competition in a particular point-to-point market, or group of point-to-point markets, and there is a showing that geographic rate averaging will not sufficiently mitigate the exercise of market power, we will refrain from employing the more burdensome approach of analyzing separate data from each point-to-point market. We believe that, in most cases, statistics, such as market shares, are most accurately calculated based on aggregate data covering all domestic point-to-point markets. [FM181]

68. In the Interexchange NRPB, we also sought comment on how narrowly we should define the points of origination and termination when examining a point-to-point market. [FM182] The relevant point in a point-to-point market is the location of a particular telephone or other telecommunications device. For example, with regard to residential long distance service, the relevant point is each individual consumer's residence. We recognize that assessing market power at such a level of detail would be administratively impractical, to conclude, that there is no need to define larger points because, when assessing the market power of a particular carrier or group of carriers, we will treat together all point-to-point markets within a boundary such that all transactions carried out within that boundary are subject to the same competitive conditions. Therefore, for all practical purposes, we likely expect that the relevant geographic area for assessing market power will usually consist of multiple point-to-point connections that exhibit the same competitive conditions. Because we will invariably analyze a group of point-to-point markets, there is no practical need to also redefine the "individual points."

69. Although GII has suggested that we treat Alaska as a separate geographic market in assessing the market power of AT&T/Aluscom, we do not do so in this proceeding. [FM183] As noted above, any modifications to decisions reached in the AT&T Reclassification Order that may be necessary as a result of our decision here will be addressed, as necessary, in further proceedings. [FM184] We emphasize, however, that, because market definition is only one step in assessing market power, changes made in our approach to defining relevant markets will not necessarily produce different assessments of market power.

## B. Geographic Market for RBOC Interstate Affiliated and Independent LECs

### a. Background

71. In the Non-Accounting Safeguards NPM, we tentatively concluded that, if we adopt the approach proposed in the interexchange NPM, we should evaluate a BOC's point-to-point markets in which calls originate in-region separately from its point-to-point markets in which calls originate out-of-region, for purposes of determining whether BOC interLATA affiliates have market power in the provision of interstate, domestic, interLATA services. [FN185] Similarly, we tentatively concluded that we should evaluate an independent LATA's point-to-point markets in which calls originate in the local exchange areas separately from its markets in which calls originate outside those areas, for the purpose of determining whether an independent LATA possesses market power in the provision of interstate, domestic, interexchange services. [FN186]

#### b. Comments

72. Several commenters support the Commission's tentative conclusion that it should evaluate a BOC's point-to-point markets in which calls originate in-region separately from its point-to-point markets in which calls originate out-of-region in order to determine whether a BOC interLATA affiliate possesses market power in-region. [FN187] CTIA and LIMIS argue that this approach is supported by the fact that congress legislated different treatment for in-region and out-of-region BOC services. [FN188] Although LIMIS agrees with the Commission's proposal to focus, by part in its markets only where credible evidence of a lack of marginalism and a failure of geographic rate averaging to mitigate market power exists, TDDT argues that the Commission should find that, in light of BOC control over the origination and termination ends of nearly all interstate, long distance calls, the relevant geographic market for a BOC interLATA affiliate will be the entire region in which it provides long distance services, regardless of whether it is part of the region in which the BOC provides local exchange and exchange access services. [FN189] MCI contends that the approach proposed in the Non-Accounting Safeguards NPM recognizes that there are greater opportunities for cross-subsidization and anticompetitive conduct for interLATA service originating in a BOC's service region. [FN190] Regardless of the market definition, BOC states that it is "both unreasonable" in this proceeding for the Commission to distinguish a BOC's provision of interexchange service outside the region from provision of such services within the region. [FN191] Sprint and the New York Public Service Department urge the Commission to recognize that surcharge, regulation, and similar mechanisms by BOCs may require consideration of geographic markets more extensive than a BOC's own region. [FN192]

73. The BOCs generally oppose the approach proposed in the Non-Accounting Safeguards NPM and contend that the Commission should treat domestic, interstate, interexchange services as a single national market for purposes of determining whether a BOC's interLATA affiliate has possessed in-region market power. [FN193] BellSouth and USIA contend that all competing carriers should be subject to the same standards, including the same regional market definitions, absent compelling reasons for discriminatory treatment. [FN194] BellSouth and USIA argue that, given the BOCs' zero market share, the structural separation requirements and regulatory safeguards that apply to a BOC's provision of long distance services, and the comprehensive regulation of the BOC's bottleneck facilities, the Commission's assumption that BOC interLATA affiliates may have market power over in-region interexchange services and therefore those services may need to be examined separately from out-of-region services is flawed. [FN195]

74. NYSEK commence that the fact that the BOCs are not likely to begin offering interexchange services with nationwide networks does not justify redefining the domestic market because many interexchange carriers also underwrite their offerings in particular regions. [Ex-16 NYSEK also asserts that the 1992 Merger

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95. As previously discussed, most analysts see the current market decline as a continuation of the long-term downward trend in oil prices. This view is supported by the fact that oil prices have been declining since 2014, and there is no clear evidence of a reversal in this trend. The main factors driving this decline are the oversupply of crude oil and the weak demand from major economies like China and India. Additionally, the political situation in Venezuela has led to a significant reduction in oil production, which has further contributed to the price drop. In addition, the recent increase in US shale oil production has also put downward pressure on oil prices.

pointed out earlier, the traditional forms of communication between the government and the public have been transformed by the rise of new media technologies such as the Internet, mobile phones, and social media. This has led to a more participatory and transparent form of governance, where citizens can easily access information and engage with their elected representatives. The government has responded to this by introducing measures such as e-governance, which allows citizens to file applications online and receive responses through digital means. However, there are still challenges in ensuring that all citizens have equal access to these new technologies and that they are used ethically and transparently. The government must continue to invest in infrastructure and training to address these challenges and ensure that the benefits of new media technologies are available to all.

and-then-sleeps. This is a common pattern among people who have been exposed to the disease. It is also seen in children who have had the disease. The first symptom is usually a fever, followed by a headache, and then a sore throat. After a few days, the fever subsides, and the person feels better. However, the sore throat remains, and may become more painful as time goes on. This is because the virus that causes the disease has damaged the lining of the throat, and this damage causes pain.

77. We adopt this bifurcated analysis to determine whether a BOC or independent LEC, through improper cost allocation or discrimination, could use its market power in local exchange and exchange access services to disadvantage long-distance rivals or the BOC interLATA affiliate or independent LEC. Such improper cost allocation or discrimination might enable a BOC interLATA affiliate or independent LEC to obtain the ability profitably to raise and sustain the price for in-region, interstate, domestic, long distance services above competitive levels by restraining its output of long distance services. We are not persuaded, moreover, that geographic rate averaging of interstate long distance services alone will necessarily suffice to offset the potential anticompetitive effects of a BOC or independent LEC's use of the market power resulting from its control over local access facilities because if a BOC interLATA affiliate or independent LEC's long distance customers are concentrated in one region, it may be profitable to raise prices above competitive levels, even if geographic rate averaging might cause it to lose market share outside that region.

78. We reject AT&T's contention that the geographic market definition is irrelevant in assessing whether BOC interLATA affiliates or independent LECs possess market power. [RM208] As discussed above, we conclude that a relevant geographic market must be defined in order to conduct an accurate assessment of market power. While we agree with AT&T that other factors are important in making our overall assessment of market power, we do not agree that we can avoid defining the relevant geographic market if we wish to achieve an accurate assessment of whether BOC interLATA affiliates or independent LECs possess market power in the long distance marketplace. Moreover, we further note that, in some cases, it may be necessary to focus specifically on the termination point because the local exchange carrier that serves the end-user customer will necessarily have market power with regard to that customer.

### 3. International Geographic Market for BOC InterLATA Affiliates and Independent LECs

79. In the Non-Broadcasting Safeguards NBB, we tentatively concluded that, for purposes of assessing whether BOC interLATA affiliates or independent LECs could exercise market power in the international long distance marketplace, market power should be measured on a worldwide, rather than route-by-route, basis, except for routes on which the carriers are affiliated with foreign carriers in the destination market. [RM207] AT&T and USIA agreed with this Commission's tentative conclusion. [RM208]

80. In assessing whether BOC interLATA affiliates and independent LECs possess market power in the international long distance marketplace, we adopt our tentative conclusion, but clarify that we will examine aggregate data that encompasses all international point-to-point markets, unless there is credible evidence suggesting that there is or could be a lack of competition in one or more international point-to-point markets. Of course, as discussed above, we will examine international point-to-point markets that originate in region separately from international point-to-point markets that originate out-of-region. We acknowledge that myriad factors, including whether a carrier controls 100 percent of the capacity of the U.S. half of a particular international point-to-point market, may affect our determination of whether each international point-to-point market has competitive characteristics that are sufficiently similar to other point-to-point markets in the international marketplace. [RM209] In such cases, it may be necessary to conduct a more particularized analysis and examine certain individual international point-to-point markets or groups of point-to-point markets separately. Because no such factors currently apply to, we believe, are likely to apply to any BOC interLATA affiliate or independent LEC, however, we find that each individual international point-to-point market exhibits similar competitive characteristics to all other international point-to-point markets. Therefore, it is unnecessary for us to conduct a separate

analysis for each international point-to-point market, given the administrative burdens associated with such an inquiry. Our decision here to examine aggregate data that encompasses all international point-to-point markets does not modify our existing route-by-route approach to consider whether U.S. carriers affiliated with a foreign carrier should be regulated as dominant in the provision of international services because they are affiliated with a foreign carrier that exercises market power in a foreign market.

**IV. CLASSIFICATION OF BOC INTERLATA AFFILIATES AND INDEPENDENT LECS AS DOMINANT NON-DOMESTIC CARRIERS IN THE PROVISION OF IN-REGION LONG DISTANCE SERVICES 81.** In this section, we consider whether we should continue the dominant carrier classification that under our rules would apply to the BOC interLATA affiliates in the provision of in-region, interstate, domestic, international services. [FN210] In order to reclassify the BOC interLATA affiliates as non-dominant, our rules require us to conclude that they will not possess market power in the provision of those interLATA services in the relevant product and geographic markets. [FN211] We also consider whether we should modify the regulatory regime adopted in the Competitive Carrier Fifth Report and Order for the regulation of in-region, interstate, domestic, telecommunications services provided by independent LECs. Finally, we consider whether we should apply the same regulatory classification to the BOC interLATA affiliates' and independent LECs' provision of in-region, international services as we adopt in this proceeding for their provision of in-region, interstate, domestic, long distance services. [FN212]

#### A. Classification of BOC interLATA Affiliates

**B1.** We conclude that the requirements established by, and the rules implemented pursuant to, sections 271 and 272, together with other existing rules, sufficiently limit a BOC's ability to use its market power in the local exchange or exchange number markets to enable the interLATA affiliate profitably to raise and sustain prices of in-region, interstate, domestic, interLATA services significantly above competitive levels by restricting the affiliate's own output. We therefore classify the BOC's section 272 interLATA affiliates as non-dominant in the provision of those services. We also conclude that we should apply the same regulatory classification to the BOC interLATA affiliates' provision of in-region, international services as we adopt for their provision of in-region, interstate, domestic, interLATA services.

#### B. Definition of Market Power and the Limits of Dominant Carrier Regulation

##### A. Background

**B1.** In the New Accounting Safeguards XMP, we noted that there are two ways in which a carrier can profitably raise and sustain prices above competitive levels and thereby exercise market power. [FN213] First, a carrier may be able to raise prices by restricting its own output (which usually requires a large market share); second, a carrier may be able to raise prices by increasing its rivals' costs or by restricting its rivals' output through the carrier's control of an essential input, such as access to bottleneck facilities, that its rivals need to offer their services. [FN214] We sought comment on whether the BOC interLATA affiliates should be classified as dominant carriers in the provision of in-region, interstate, domestic, interLATA services under our rules only if we find that the affiliates have the ability to raise prices of those services by restricting their own output, or whether we should also classify the affiliates as dominant if the BOC has the ability to raise prices by raising the costs of their affiliates.

• *Stopgap Solutions* - temporary measures to address immediate problems without addressing underlying causes.

19. Allottedland is scarce, & agricultural expansion has been checked by the settler's market

The primary commercial activity will be the development of a residential area around the new set settlements adopted in the later stages of the process (PMT) and some residential areas near the new settlements adopted in the later stages of the process (PMS).

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and the other two were to be distributed evenly between the two companies. Andante's shareholders were to receive 100,000 shares of Andante common stock, while the other two shareholders were to receive 100,000 shares of Andante common stock.

topographies never seen before (MHN) is to set up a particularized classifier to predict and reconstruct novel patterns. The classifier is the convolutional neural network (CNN) that is trained to extract features of the input image. The CNN takes the image as input and processes it through several layers of feature extraction. The final layer produces a probability distribution over all possible classes. This distribution is then used to calculate the loss function, which measures the difference between the predicted distribution and the ground truth distribution. The loss function is then used to update the weights of the network, so that it can better predict new images.

#### **ANSWER**

NO-448-450 15000

1988-1989: *Constitutive* (1988) and *Constitutive* (1989) by *Constitutive*

that BOC entry into interLATA services should not serve as a basis to reconsider the relevant market definitions and that it would be unreasonable to isolate portions of the national market to analyze the market power of new entrants when a single national market has been used to assess the market power of incumbent interexchange providers. [FN52] BellSouth cautions that any change in the market definitions will also require the Commission to reconsider previous decisions based on the existing definitions. [FN53] CUC and U.S. West assert that the fast-changing telecommunications marketplace may render modifications in the market definitions wholly obsolete. [FN54] BOC claims that the 1992 Merger Guidelines were never intended to serve as a basis for determining whether or not to regulate a market or to establish a rationale for disparate regulation of market participants. [FN55] NCTA argues that a market definition based only on demand conditions, omitting supply factors and competitive conditions, could result in an inaccurate finding of significant market power. [FN56]

21. Allusion Ameritech does not disagree with the Commission's proposal to use the 1992 Merger Guidelines to define relevant markets, if only because it could be impractical and unnecessary to define each and every product and geographic market. [FN57] If the Commission adopts its proposed approach, however, Ameritech asks that the Commission clarify that the 1992 Merger Guidelines will be used to assess market power for other services, including interstate access services. [FN58]

22. AT&T argues that the definitions adopted in the original LATA carrier proceeding are appropriate for determining whether carriers, other than those that control the local bottleneck, possess market power in interexchange services because supply substitutability and the widespread pervasiveness of ubiquitous calling plans demonstrate that there is a single, national market for local telephone. [FN59] AT&T emphasizes that the 1992 Merger Guidelines provide support for the existing market definitions, rather than the Commission's proposed new approach, because the 1992 Service Order does recognize the importance of supply substitutability in defining relevant markets and advocates aggregate market descriptions where production substitutability among a group of products is nearly universal among the firms selling one or more of those products, as is the case in the telecommunications industry. [FN60]

23. The Department of Justice (DOJ) contends that it is not necessary for the Commission to adopt a precise definition of the relevant markets involved in the provision of a BOC interLATA affiliate's interLATA services and that the Commission should refrain from doing so at this time. [FN61] To the extent the Commission chooses to define markets in this proceeding, however, DOJ urges the Commission to be mindful of the different objectives of defining markets for purposes of regulation and antitrust enforcement. [FN62] DOJ asserts that, while the approach proposed by the Commission in the Interexchange RFIAM for defining relevant markets is "not unreasonable," changes in the telecommunications industry may require the Commission to define markets more precisely in the future and that it may be inappropriate to address those issues at this time. [FN63]

24. NCTC argues that the 1992 Merger Guidelines are too generic to apply to the telecommunications industry and should not be used to redefine the appropriate product and geographic markets. [FN64] NCTC argues, for example, that while the 1992 Merger Guidelines contemplate industries in which goods are substitutable, the telecommunications services market is made up of services that are not substitutable, but rather fungible, inputs used by competitors. [FN65] In addition, NCTC claims that the 1992 Merger Guidelines are not well-suited to highly segmented industries, such as the telecommunications industry, which is segmented into residential, business, peak, off-peak, local, toll and access services. This market segmentation, NCTC claims, makes it possible for dominant firms to engage in predatory cross-subsidization across market segments. [FN66] NCTC further cautions that, while the 1992 Merger Guidelines focus on geographic factors and pricing issues, measuring market power in the telecommunications industry requires consideration of such non-pricing issues as physical endlocation, interconnection, and the allocation of